IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1379 of 1980

For Approval and Signature:
HONOURABLE **MS. JUSTICE R.M.DOSHIT**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)
Versus
BALABHAI NANJIBHAI PATEL - Defendant(s)

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Appearance :
Ms ARCHANA PATEL for Mr HARDIK C RAWAL for Appellant
NOTICE UNSERVED for Defendant(s) : 1,
NOTICE SERVED BY DS for Defendant(s) : 2,

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CORAM : HONOURABLE MS. JUSTICE R.M. DOSHIT
9th October, 2007

ORAL JUDGMENT

This Appeal preferred by the Gujarat State Road Transport Corporation [hereinafter referred to as, "***the Corporation***"] under Section 110D of the Motor

Vehicles Act, 1939 arises from the judgment and award dated 28th March, 1980 passed by the Motor Accident Claims Tribunal, Surat [hereinafter referred to as, "***the Tribunal***"] in Motor Accident Claim Petition No. 307 of 1979. The respondent no.1 is the claimant.

The respondent no.1-claimant filed the above referred Claim Petition No. 307 of 1979 before the Tribunal for compensation in the sum of Rs. 90,000/=. It was the case of the claimant that on 16th August, 1979 while he was travelling in the offending bus bearing registration no. GTH-4449 from Katargam to Surat. On account of rash and negligent driving of the offending bus, the claimant was thrown off the bus. On account of the said fall, he received severe injuries. His right leg had to be amputated above the knee. At the time of accident, he was 22 years of age and was engaged by diamond polishing business. He was earning around Rs. 800/= per month.

The claim was contested by the Corporation. The Corporation denied that its driver was rash and negligent in driving the offending bus. According to the Corporation, the claimant tried to board the running bus. In the process, he collided with other

stationary bus and received injuries in question. The Corporation was, therefore, not liable to pay compensation to the claimant.

The learned Tribunal after considering the evidence on record held that the claimant was thrown off the bus on account of rash and negligent driving. Considering the age of the claimant, the injuries suffered by him and the loss of future income, the learned Tribunal awarded compensation in the sum of Rs. 72,875/=. Feeling aggrieved, the Corporation has preferred the present Appeal.

Miss Patel has appeared for the Corporation. She has submitted that the learned Tribunal has erred in holding that the driver of the offending bus was negligent in driving the vehicle. She has submitted that the accident in question occurred on account of the claimant's negligence in as much as he tried to board the running bus. She has submitted that the compensation in the sum of Rs. 72,875/= awarded to the claimant is on the higher side and requires to be reduced to a just and proper compensation.

I am unable to agree with Miss Patel. The

evidence on record and nature of the injuries suffered by the claimant belies the claim of the Corporation that the claimant had made an attempt to board the running bus. It is evident that the claimant suffered severe injuries as he was thrown off the bus on account of rash and negligent driving by the driver of the offending bus. As to the amount of compensation, as recorded hereinabove, the claimant at the relevant time was young man of 22 years of age, had to suffer a long and painful medical treatment and amputation of his right leg above the knee. As the claimant was employed in a diamond polishing business, his earning Rs. 800/= per month and award for loss of future income cannot be disputed.

For the aforesaid reasons, the Appeal is dismissed with cost.

{Ms. R.M Doshit, J.}

*Prakash**